

1 DUNCAN J. McNEIL, III
 2 2030 W. SPOFFORD
 3 SPOKANE, WA 99205
 4 INDIGENT, DISABLED,
 5 UNLAWFULLY INCARCERATED,
 6 CIVIL DETAINEE, JUDGMENT
 7 CREDITOR AND APPELLANT

MO: _____
 DATE: _____
 FJ: _____

APR 23 2006

DISTRICT COURT
 U.S. COURT OF APPEALS
 FOR
 DISTRICT OF DELAWARE

10 Re ~~Kaiser~~
 DUNCAN J. McNEIL, III
 PLAINTIFF / APPELLANT

11 v. ~~Kaiser~~
 12 UNITED STATES, ET AL.
 13 DEFENDANTS / APPELLEES

02-10429
 CASE NO:
 FRCPS2,59 #60
 APPELLANT'S Ex PARTE
 MOTION ~~FOR~~ TO RECONSIDER
 APPOINTMENT OF
 COUNSEL ON APPEAL
 IN THE INTERESTS
 OF JUSTICE, PURSUANT
 TO 28 USC § 1915(c)(1)
 AND JOHNSON V. US,
 352 U.S. 565 (1957).

18 THE APPELLANT HEREBY CERTIFIES
 19 THAT THE HEREIN APPEAL REQUIRES AN
 20 ANSWER TO ONE OR MORE PRECEDENT-
 21 SETTING QUESTIONS OF EXCEPTIONAL
 22 IMPORTANCE, ARISING FROM THE DENIAL
 23 OF OR THE VIOLATION OF FUNDAMENTAL
 24 CONSTITUTIONAL RIGHTS. BASED UPON THE FACTS,
 25 STATEMENTS AND AUTHORITY CITED TO IN THE
 26 APPELLANT'S NOTICE OF APPEAL (INCORPORATED HEREIN)
 27 THE APPELLANT, INDIGENT & DISABLED, MOVES THE
 28 COURT FOR APPOINTMENT OF COUNSEL PER 28 USC
 § 1915(c)(1) AND/OR JOHNSON V. U.S., 352 U.S. 565 (1957)

DATED: 4/24/06

1610 ~~10~~ 4

APPELLANT ASSERTS THAT IN ORDER
 TO ENSURE DUE PROCESS IN THIS
 ACTION, THAT APPELLANT SHOULD
 BE APPOINTED COUNSEL, OR AT
 LEAST "STAND-BY" COUNSEL, TO
 ASSIST APPELLANT WITH ACCESS
 TO THE COURT, RECORD, AND W/
 COMPLIANCE WITH THE COURT'S
 DEADLINES & RULES. THE COURT
 HAS IMPROPERLY, IN VIOLATION OF
 DUE PROCESS, FINDING A "HISTORY
 OF FRIVOLOUS LITIGATION", WHICH
 THE APPELLANT DISPUTES THESE
 CONTENTIONS OR FINDINGS AND
 ASKS TO BE HEARD ON THESE
 ISSUES. APPELLANT MOVES
 THE COURT FOR COPIES OF THE
 ORDERS CITED TO IN ITS ORDER OF
 4/18/06 ① 05-574, ORDER AT 2 (AUG
 22, 2005) AND ② 05-574, MEM.
 ORDER, AT 6 (FEB. 7, 2006), AND A
 HEARING TO BE HEARD ON A COLLATERAL
 ATTACK AS TO ANY ORDER REVOKED
 PG 2 OF 4

OR CITED TO BY THE COURT THAT
 INFERS, STATES, OR ALLEGES THAT
 APPELLANT ① HAS A "HISTORY" OF
 FILING FRAUDULOUS CLAIMS"; AND ②
 CLAIMING THAT APPELLANT HAS
 BEEN "DEEMED A VEXATIOUS
 LITIGANT" BY THREE OTHER COURTS.

APPELLANT DISPUTES THESE FINDINGS
 OF THE COURT, AND PURSUANT
 TO FRCP 52, 59 & 60, SEEKS
 RELIEF FROM SAID FINDINGS
 (MADE SUA SPONTE & EX PARTE)
 MADE W/O NOTICE OR OPPORTUNITY
 TO BE HEARD, APPELLANT CERTIFIES
 THAT ALL SUCH ORDERS ARE "VOID
 AB INITIO", ENTERED IN A CLEAR
 ABSENCE OF ALL JURISDICTION,
 CONTRARY TO ~~THE~~ ESTABLISHED
 & CONSTITUTIONAL PROVISIONS,
 STATUTES, CASE LAW OR OTHER
 AUTHORITY. AS SUCH SUCH ORDERS ARE
 SUBJECT TO A COLLATERAL ATTACK
 IN THE ACTION AS THEY HAVE
 BEEN RELIED UPON BY THE
 PG 3 OF 4

COURT IN DENYING APPELLANT
RELIEF, IN VIOLATION OF THE
APPELLANT'S RIGHT TO DUE
PROCESS, AND RIGHT TO BE
HEARD.

AS SUCH APPELLANT
SEeks RELIEF FROM ALL SUCH
ORDERS AND FINDINGS, UNDER
FRCR 52, 59 & 60, AND/OR
A MOTION HEARING w/ A
BREAKING SCHEDULE ON THAT
ISUE.

APPELLANT FURTHER ASSERTS
THAT THE COURT'S PRE-DETERMINED
TO DENY APPELLANT DUE PROCESS,
TO DECEASE APPELLANT FRIVOLOUS
AND VEXATIOUS, ON A EX PARTE
SUBSPONTE BASIS, IS BASIS FOR THE
COURT TO DISQUALIFY ITSELF IN
THE MATTER AS THE APPELLANT'S
RIGHT TO A FAIR HEARING BECAME THE
IRREPARABLY COMPROMISED. I BECAME THE
FOPR GOING TO BE TRUE AND CORRECT
4/24/06 under the penalty of perjury
R. 4.4



DUNCAN T. McPHER THE
SPORTSMAN CO. ~~SPORTSMAN~~
~~SPORTSMAN~~ 1100 W. MAIN ST
SPokane, WA 99201

CLERK

US DISTRICT COURT
LOCK BOX 27
COLUMBIA, DE 19801

U.S.M.S
X-RAY

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